

Court-II

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 60 of 2014

Dated : 5th February, 2015

**Present : Hon'ble Mr. Justice Surendra Kumar, Judicial Member
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

In the matter of:

West Bengal State Electricity Distribution Co. Ltd., Appellant(s)

Versus

Central Electricity Regulatory Commission & Ors Respondent(s)

**Counsel for the Appellant (s) : Mr. Jayant Bhushan, Senior Advocate
Mr. Sakya Singh Chaudhuri
Mr. Avijeet Lala**

**Counsel for the Respondent (s) : Mr. Anand K. Ganesan &
Ms. Mandakini Ghosh for R-2
Mr. K.S. Dhingra for R-1**

ORDER

We have heard Mr. Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellant. The learned Senior Counsel for the appellant, in his arguments, submitted that the plant in question is unique of its type in the country which is having a specific design, special machineries and equipments fitted in which are imported from the foreign countries and involves investment of more than Rs. 3,000/- crore.

The point involved in the instant Appeal requires this Tribunal, as per Section 73 (n) of the Electricity Act, 2003, to first obtain the advice of the Central Electricity Authority (CEA), which is a very technical and specialized body for giving such kinds of advice.

Mr. K.S. Dhingra, learned counsel appearing on behalf of the Central Electricity Regulatory Commission states that the impugned order has been passed in accordance with the Grid Code and as per the Regulations of the CERC.

Since the learned Sr. Advocate appearing for the appellant, without assailing on the merits of the impugned order, simply submits that the advice of CEA should first be obtained and thereafter the matter be heard so as to enable this Tribunal to arrive at the correct and technical findings because if the impugned order is allowed to stand and followed in toto, the whole system in the plant including machineries are likely to be damaged.

Learned counsel appearing for the respondent no.2, namely, ERLDC submits that respondent no.2 has no objection if CEA is consulted.

In this view of the matter, we direct the contending parties to file their respective written submissions within two weeks from today and serve a copy thereof on the other side and only thereafter, the said point will be considered.

List this Appeal on the point of consulting Central Electricity Authority (CEA) on
5th March, 2015.

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

HCJ/RKT